

# Montana Transportation Commission

## February 22, 2007 Meeting

MDT Commission Room  
2701 Prospect Avenue  
Helena, MT

### IN ATTENDANCE

Bill Kennedy, Transportation Commission Chair  
Kevin Howlett, Transportation Commissioner  
Rick Griffith, Transportation Commissioner  
Nancy Espy, Transportation Commissioner  
Dee Winterburn, Transportation Commissioner  
Jim Lynch, MDT Director  
Jim Currie, MDT Deputy Director  
Loran Frazier, MDT Engineering  
Sandra Straehl, MDT Rail, Transit & Planning  
Mike Duman, MDT  
Ted Burch, MDT  
Tim Reardon, MDT  
Lori Ryan, MDT  
County Commissioners

*Please note:* the complete recorded minutes are available for review on the commission's website at [http://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or [lrbyn@mt.gov](mailto:lrbyn@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

### ***OPENING – Chairman Bill Kennedy***

Chairman Bill Kennedy called the meeting to order and read through the Meeting Agenda. After the pledge of allegiance, Commissioner Howlett offered the invocation.

Chairman Kennedy introduced the newest Transportation Commissioner, Dee Winterburn, and asked that she give a brief history and background to the Commission. Dee Winterburn stated she had lived in Helena since 1979, before that she was in Denver, Colorado. She is a graduate from the University of Colorado and received her Masters Degree from the University of Montana. She recently retired from teaching school for 35 years. She has four children who are all grown and married, and eight grandchildren. Her youngest son lives in Los Angeles and is a graduate of the MSU film school and is in the film industry. Her daughter, Sarah, is married to Darrell Stevenson and they have a cattle operation in Hobson, Montana. Her son, David, lives in Missoula. Her daughter, Amy, lives in Helena and has a human resource business. She stated she was very thrilled to be appointed to the Commission and hopes to do a good job. Commissioner Kennedy welcomed her aboard. Director Lynch declared she was a great addition to the Commission. The Commissioners each introduced themselves and gave a short version of their education and work history. Chairman Kennedy explained the Commission went on some field trips throughout the year to a couple of districts which gives the Commission a chance to meet with the local folks and get a first hand view of some current projects. It gives the Commission a chance to listen to a lot of people on a lot of issues. He stated this has been a cohesive Board and he welcomed her aboard.

Chairman Kennedy went over the agenda and explained the bid letting was scheduled for 10:00 a.m. that morning in the auditorium. He noted the Commission has allowed the opportunity for local government officials to come before the

Commission to go over any issues they may have as well as allowing time for public comment.

Director Lynch noted there were two agenda items to be removed from the Agenda: (1) The Lewis and Clark County Commission Missouri Bridge. The Lewis and Clark County Commissioners requested a Resolution to rename the Craig Bridge after former Governor Forest Anderson. However they discovered the bridge was not on the state system but rather was a county bridge. Therefore there is no action necessary from the Commission on this item. (2) The other item is Item No. 10 – Mobilization – part of our specifications which this Commission approves. The Department of Transportation is re-looking at Mobilization for a number of reasons and was premature to discuss at this time. He noted that Loran Frazier and others would be looking at mobilization in other states and once that information is compiled and the department develops something that works for Montana, it would be brought before the industry first to get their feedback before bringing it to the Commission as a recommendation and change. He noted they should have it by April.

***Agenda Item 1: Approval of Minutes of December 7, 2006 Regular Meeting, December 18, 2006 Conference Call, January 2, 2007 Conference Call, and February 5, 2007 Conference Call.***

Chairman Kennedy asked if there were any additions, deletions, or changes to the Commission Meeting Minutes for December 7, 2006 Regular Meeting, the December 18, 2006 Conference Call, the January 2, 2007 Conference Call, and the February 5, 2007 Conference Call.

Commissioner Griffith moved to adopt the minutes as presented. Commissioner Espy seconded the motion. All five commissioners voted aye.

The motion passed unanimously.

***Agenda Item 2: Enhancement Program on MDT Right-Of-Way***

Sandra Straehl presented the following to the Commission:

**Background**

The Commission approves Community Transportation Enhancement Program (CTEP) projects that are located on or adjacent to state designated streets and roads. The following CTEP projects are funded with the enhancement set-aside of the Surface Transportation Program that is allocated by population to Montana's local and tribal governments. The communities select projects for funding with their allocations and provide required non-federal match. The program is based on an agreement between MDT and Montana local and tribal governments. The projects proposed for addition to the program are shown below.

**Fairgrounds US 2 Path - Glasgow** – This enhancement project will design and construct approximately 65,000 square feet of hard-surfaced pedestrian paths, decorative fencing and landscaping. The project is located within and adjacent to the Valley County Fairgrounds/Event Center and along the south side of US 2 (N-1). The portions of the project that are considered on-system will include landscaping in the US 2 right-of-way between 4<sup>th</sup> and 5<sup>th</sup> Avenues and a portion of the pedestrian path on the south side of US 2 between Division Street and Laser Drive.

The estimated total cost of the project is \$137,500 consisting of \$12,000 for preliminary engineering, \$7,500 for construction engineering and \$118,000 for construction. Valley County's CTEP allocation and local match will be the funding sources for this project. Including this project, Valley County will have obligated \$380,856 of the \$389,104 made available over the life of the CTEP program.

**Alkali Creek Drainage Path – Billings** – This enhancement project will design and construct the placement of 200 linear feet of culvert and 300 linear feet of sidewalk for an underpass bike/pedestrian path on Main Street (US 87/N-16, reference point 2.071) in Billings. The underpass will be constructed in MDT right-of-way under Main Street in the Alkali Creek Drainage. This path will serve to connect the east side of Main Street to the west side and will provide an access link for bicycles and pedestrians to cross under Main Street without exposure to seven lanes of high volume traffic. The path will include a connector trail to existing sidewalks and trails on both the east and west side of Main Street.

The estimated total costs of the project are \$700,000 consisting of \$75,000 for preliminary engineering, \$75,000 for construction engineering and \$550,000 for construction. The City of Billings CTEP allocation and local match will be the funding sources for this project.

**Lake Elmo Drive Path - Billings** – This enhancement project will design and construct 4,000 lineal feet of sidewalks, 1,000 linear feet of drive approaches and 5,000 linear feet of bicycle/pedestrian path along Lake Elmo Drive in Billings. The project will include ADA ramps, street lighting, landscaping and street crossings. The project will improve pedestrian access to Bench Elementary School.

This project will be done in conjunction with the reconstruction of Lake Elmo Drive between Hilltop Road (U-1027) and Wicks Lane (U-1012). Lake Elmo Drive is considered off-system; however the north end of the project will tie into MDT right-of-way at Wicks Lane (U-1012, reference point 1.464) to match the existing pavement, sidewalks, and upgrade of ADA ramps.

The estimated total costs of the project are \$2,850,000 consisting of \$175,000 for preliminary engineering, \$265,000 for construction engineering and \$2,410,000 for construction. The City of Billings CTEP allocation and local match will be the funding sources for this project.

This project, in conjunction with the *Alkali Creek Drainage Path* project, will have obligated \$6,095,903 of the \$6,616,891 made available to the City of Billings through the CTEP program.

### Summary

This agenda item is for three on-system enhancement projects are being proposed for commission approval using CTEP allocations to the respective local governments.

1. *Fairgrounds US 2 Path - Glasgow* bicycle/pedestrian path project is estimated at a total project cost of \$142,500. The project is located within and adjacent to the Valley County Fairgrounds/Event Center and along the south side of US 2 (N-1) and will be developed in accordance with all federal and state requirements.

2. The *Alkali Creek Drainage Path- Billings* underpass project is estimated at a total project cost of \$700,000. The project will place a culvert underpass for bicycle/pedestrian use in the Alkali Creek Drainage located on Main Street (US 87/N-16) in the City of Billings. This project will be developed in accordance with all federal and state requirements.

3. The *Lake Elmo Drive Path - Billings* sidewalk and landscaping project is estimated at a total project cost of \$2,850,000. The project is located along Lake Elmo Drive and

will tie into MDT right of way on Wicks Lane (U-1012). This project will be developed in accordance with all federal and state requirements.

**Staff recommendations**

Staff recommends that the commission approve the addition of these projects to the program.

Commissioner Griffith moved to approve the Enhancement Program in MDT Right-of-Way. Commissioner Espy seconded the motion. All five commissioners voted aye.

The motion passed unanimous.

**Agenda Item 3: Sidewalks – Lewistown West**

Sandra Strachl presented the following to the Commission.

**Background**

MDT is requesting commission approval for the addition of a sidewalk project into the program. During discussions between MDT and the City of Lewistown for the Environmental Assessment for the Lewistown West – Overpass project (UPN 4066-001), MDT had agreed to the construction of sidewalks on the south side of the roadway from the end of the overpass project at Fifteenth Avenue South easterly to Thirteenth Avenue. The sidewalk portion of the project was inadvertently omitted from the Environmental Assessment; therefore a new project needs to be programmed as the sidewalks are beyond the limits of the original project. This project will require the preparation of a separate Categorical Exclusion environmental document and construction plans, but will be tied to the Lewistown West-Overpass project for letting and construction.

The proposed Lewistown West – Sidewalk project is located adjacent to Montana 200/US 87 (N-57). The project will be between reference points 81.002 and 81.133. The sidewalks will run east and west, tie into the existing curb and gutter, and will be 0.1 mile in length on the south side of the roadway.

MDT staff is proposing National Highways (NH) funds as the funding source for this project. The total estimated costs for the project are \$40,305 consisting of \$3,665 for construction engineering and \$36,640 for construction. The preliminary engineering costs will be incidental to the Lewistown West – Overpass project.

**Summary**

The addition of a sidewalk project is being proposed that will be tied to the Lewistown West – Overpass project. National Highway (NH) funds will be used for the project costs estimated at \$40,305 for construction engineering and construction. MDT had agreed to the construction of the sidewalks for the Lewistown- West Overpass project; however the sidewalk portion was omitted from the environmental document, necessitating an additional project to complete the sidewalks.

**Staff recommendations**

Staff recommends the Commission approve the addition of this project to the program.

**Discussion**

Commission Kennedy asked if the Lewistown West project was pushed back. Director Lynch stated it was pushed back during the Red Book process. Chairman Kennedy asked if this request included the environmental process for the project moved forward. Sandy stated it was for the environmental process and for

programming funds for construction and preliminary engineering. They will be merged and tied together at that time. Chairman Kennedy asked if the project would be pushed back with the other part of the project. Sandy stated they would be built together. Commissioner Howlett asked if the environmental process could be piggybacked. Sandy stated that the boundaries of the environmental documents were not extended to include the sidewalk, therefore the only way to bring this along is to program a second project just for the sidewalk and do it as a Categorical Exclusion and then tie it in with the construction of the overpass project. Chairman Kennedy asked if the folks in Lewistown understand this project will get delayed until the other project is constructed. Sandy stated they see it as a single project. Director Lynch stated that since the project already has done the environmental document, rather than opening up that document, this portion could be done as a Categorical Exclusion.

Commissioner Espy moved to accept staff recommendations to approve the Sidewalks – Lewistown-West project. Commissioner Griffith seconded the Motion. All five commissioners voted aye.

The motion passed unanimous.

**Agenda Item 4: Informational – Signal and Intersection Improvements on State Highway System – Intersection of 1<sup>st</sup> Avenue and South 4<sup>th</sup> Street – Laurel**

Sandra Straehl stated this agenda item was for information purposes and presented the following to the Commission.

**Background**

The Wal-Mart in Laurel is planning to design and install a traffic signal and construct intersection improvements on the State Highway System (Primary-4) at the intersection of 1<sup>st</sup> Avenue (P-4) and S 4<sup>th</sup> Street. The City of Laurel has required that the developer meet all of MDT's requirements. A traffic signal analysis has been conducted and completed. A signal was warranted, and MDT reviewed and concurred with the results of the study. The project will be funded with private funds, using contract labor. Estimated construction costs will be over \$50,000 and the project will be built in Fiscal Year 2007.

This transportation project will enhance traffic and pedestrian safety by mitigating the affects of increased traffic at this intersection due to the development of Wal-Mart. The project will provide ADA compliant improvements for the intersection. The project will be designed with review and concurrence from MDT staff

**Summary**

Staff is providing information to the commission regarding plans by Wal-Mart for the installation of a traffic signal and intersection improvements at the intersection of 1<sup>st</sup> Ave (P-4) and S. 4<sup>th</sup> Street in the City of Laurel. These improvements are being privately funded and the design will be reviewed and concurred with by MDT Staff.

**Discussion**

Chairman Kennedy asked if the department would be overseeing the project. Sandy stated that the department would make sure it met the requirements of the State. She said there is a process in place called the Systems Impact Analysis Process – that requires when a developer comes to the state looking for access onto any of the state highways, we ask them to make sure they mitigate their safety and capacity impacts to the state system. This project went through that process and we became aware that it was necessary to install a signal. All the submissions of the developers are reviewed

by department traffic engineers and by the district engineers. We will coordinate with the local governments on this to make sure we are consistent with local fire requirements and local lane use plans. Chairman Kennedy asked who would maintain the signal. Sandy stated the signal would be maintained by the department. Ted Burch asked if department has verified all the ADA requirements? Sandy stated the design plans have to include ADA requirements and are submitted for review by the department and have to be approved before they come before the Commission. There will also be a site inspection after the construction. Mike Duman asked if this contract would be administered by the City. Sandy stated it will not be administered by the City and will be done by the development firm that is building the rest of the Wal-Mart installation. It will be reviewed for performance, for safety control, for traffic control by the contractor, and then accepted by the department. Mike Duman asked about the actual construction inspections. Sandy stated the districts are in charge of the inspection during construction. Commissioner Espy asked if the traffic control would include access. Sandy stated a lot of things are looked at when a request for access comes in, i.e., if there would appear to be problems with left turns out of a location then the department may require that it be right-in/right-out only access; if there are real impacts on traffic flow then the department might require that they build acceleration or deceleration lanes. Almost every developer wants to put in a signal but sometimes they are not warranted and actually putting signals in when they are not needed creates hazards by themselves so they have to demonstrate that a signal is warranted. Intersection improvements – adding additional lanes is a fairly significant impact and again those costs are passed on to the developer. The state can help find various funding mechanisms to obtain cost contributions including bonding and setting up escrow account. In a project in Bozeman we set the design standards but all the money for construction was done through local governments. Our goal is to make sure the cost for the signal installation in Laurel doesn't impact all state citizens so they don't people end up having to pay for that; we pass it on to those who are responsible and those who will benefit. Sandy stated the Commission did not need to take action on this item.

**Agenda Item 5: Baxter Road (U-1218) Bozeman  
Speed Limit Recommendation for Commission  
Action**

Loran Frazier presented a speed limit request for Baxter Road in Bozeman. The City of Bozeman requested a 35 mph and a 45 mph in a less developed area and then back down to a 35 mph speed zone on Baxter Lane. They City did an engineering study on the project. The department concurs with the engineering study and the staff recommends that we concur with the City of Bozeman's proposed speed limits for Baxter Lane.

Commissioner Griffith moved to approve the staff recommendation to approve the Baxter Road (U-1218) Bozeman Speed Limit Recommendation. Commissioner Winterburn seconded the Motion. All five commissioners voted aye.

The motion passed unanimous.

**Agenda Item 6: Speed Limit Recommendation  
Old Highway 10, Park City to Laurel**

Loran Frazier presented a speed limit request on Old Highway 10 between Park City and Laurel. He stated it included some parts in Park City. We have letters of concurrence from Stillwater County dated November 22, 2006, and concurrence from Yellowstone County dated April 3, 2006. The staff recommendation is as follows:

*Area Specific to Park City*

A 45 mph speed limit beginning at 656+00, project FAP 170 C (as posted) and continuing east to station 681+00, an approximate distance of 2,500 feet.

A 35 mph speed limit beginning at station 681+00, project FAP 170 C (450 feet west of Clark Street) and continuing east under Interstate 90 to station 27+50, project I-IG 90-8(27).

A 45 mph speed limit beginning at station 27+50, project I-IG 90-8(27) (just north of the I-90 westbound ramps) and continuing north to station 385+00, an approximate distance of 1,350 feet.

A 55 mph speed limit beginning at station 385+00, project FAP 170 C (250' north of Big Ditch) and continuing through the horizontal curve to station 363+00, an approximate distance of 2,200 feet.

*Rural Portion of Old Highway 10 and the Approach to Laurel*

A 65 mph speed limit beginning at station 363+00, project FAP 170 C and continuing east to station 56+00, an approximate distance of 5.8 miles.

A 55 mph speed limit beginning at station 56+00, project FAP 170 A (200' west of the intersection with Golf Course Road) and continuing east to station 20+00, an approximate distance of 3,600 feet.

Chairman Kennedy said he hoped this would clear up the problem of it being in two jurisdictions – one side of the county was speed limit and on the other side was another speed limit.

Commissioner Espy moved to approve the staff recommendation to approve Old Highway 10, Park City to Laurel Speed Limit Recommendation. Commissioner Howlett seconded the Motion. All five commissioners voted aye.

The motion passed unanimous.

**Agenda Item 7: Speed Limit Recommendation  
Secondary 205 and U-605,  
West Main Street – Belgrade**

Loran Frazier presented a speed limit recommendation for Secondary 205 and Urban Route 605 which is West Main Street in Belgrade as follows:

A 35 mph speed limit beginning at the intersection with Jackrabbit Lane and continuing west to station 150+00, an approximate distance of 1,100 feet.

A 45 mph speed limit beginning at station 150+00, project FAP 201 (1,100 feet west of Jackrabbit Lane) and continuing west to station 126+00, an approximate distance of 2,400 feet.

A 55 mph speed limit at station 126+00, project FAP 201 (150 feet west of 13<sup>th</sup> Street) and continuing west 115+00, an approximate distance of 1,100 feet.

The request is to accommodate the development that has happened in Belgrade. We have a letter of concurrence from the Mayor of Belgrade and the staff recommends approval of the speed zone.

Commissioner Griffith moved to approve the staff recommendation for Secondary 205 and U-605, West Main Street – Belgrade. Commissioner Winterburn seconded the Motion. All five commissioners voted aye.

The motion passed unanimous.

**Agenda Item 8: Speed Limit Recommendation for Commission  
Action – Secondary 233, St. Joe Road**

Loran Frazier presented a proposed speed zone request north of Havre towards the Canadian border in a rural area. The County wishes to raise the speed limit from 55 mph to the statutory 70 mph. The department concurs and the staff recommends that we approve the speed limit of 70 mph between milepost 21.6 to milepost 30.6 an approximate distance of 9 miles, north of Havre at St. Joe Road. We have a letter of a concurrence from the hill County commissioners.

Commissioner Griffith moved to accept the Secondary 233 – St. Joe Road speed limit recommendation. Commissioner Espy seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

**Agenda Item 9: Speed Limit Recommendation for Commission  
Action – X-Route 16565, North Frontage Road,  
Bozeman East**

Loran Frazier presented a proposed speed limit request for the north frontage road in Bozeman. The proposal is for a 60 mph speed limit beginning at station 52+00, project I 90-6(23) (the end of the 50 mph speed zone) and continuing east to station 122+00 (300' east of the intersection with Fort Ellis Road), an approximate distance of 1.7 miles. This is for the Frontage Road along the interstate on the east end of Bozeman. We have an email concurrence from the City of Bozeman. The staff recommends we approve the 60 mph speed limit.

Chairman Kennedy asked about the letter from the City of Bozeman which stated the City of Bozeman reviewed the speed study that was done at the request of the concerned business owners. He asked if that was a request from the City of Bozeman or a private request. Loran said that the businesses were concerned and brought it to the City and the City came to the State. Director Kennedy said he received a call on this project from one of the business owners on the east end of Main Street. Director Lynch asked Loran if the City was in favor of dropping the speed limit from 70 mph to 60 mph in this portion rather than the whole portion. Loran Frazier stated he did not know if that was an issue. This is a Frontage Road on the east side of the interstate – you can see the east Bozeman interchange on the map (referring to graphic). He noted the Bozeman city limits have been extended to the east.

Commissioner Griffith moved to accept X-Route 1 6565 – North Frontage Road, Bozeman-East speed limit recommendation. Commissioner Howlett seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

**Agenda Item 10: Revision Policy #4 Mobilization (Removed from the Agenda—will be placed on the April agenda)**

Chairman Kennedy noted this item had been removed from the Agenda. He stated Director Lynch will be working on this and hopefully will be included on the April Agenda.

**Agenda Item 11: Access Modification – FR 28-2(7)70, 0130-007-000, Red Lodge, Boyd (Roberts Section) Carbon County**

Loran Frazier stated this request involves property that when we purchased right-of-way, we purchased access rights to the highway. He stated there was no access control resolution for this area. When the state purchased property through the area, they made agreements with the landowners as to where their approaches would go. This request is for one of those landowners to move some of their approaches. Our staff has worked with them and we recommend that we approve the two approaches being requested with the exact location to be established by our Billings MDT and with Carbon County. Commissioner Kennedy asked if the other approaches would be eliminated. Loran stated they would be eliminated.

Chairman Espy moved to approve the staff recommendation for the access modification on the Red Lodge to Boyd (Roberts Section) in Carbon County. Commissioner Griffith seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

**Agenda Item 12: Access Modification – NH 0002(606), 4776-606-000, Access Control – US 93 N & S (Lolo – Missoula)**

Loran Frazier said this was a long awaited Access Control Resolution for Highway 93 between Lolo and Missoula which is the busiest portion of Hwy 93 – the traffic runs over 20,000 vehicles per day. When we identified this a couple of years ago, it was the only portion of U.S. 93 between Missoula and Hamilton that did not have an access control plan. The department has been working for a couple of years to develop an access management plan for the busiest portion of Highway 93 and we now have that plan. He noted the environmental document was complete; there has been extensive public involvement; there was some minimal opposition to even placing access control on this. For safety and management of this highway in the future, which has very high and growing amount of traffic, the staff would recommend that the Transportation Commission approve the resolution designating this portion of U.S. 93 as an access control highway facility. Commission Kennedy read the last sentence in Loran's handout, "While this is not possible, each landowner will retain reasonable access to their property." He asked if the document would determine what reasonable access would be. Loran stated the department had been working that out. There are approximately three accesses he could recall that were in unsafe locations on curves and while that landowner still needed to maintain access, the department needs to move those approaches to safer locations. Director Kennedy asked who would move the approaches. Loran stated the department would be moving them under the management control plan.

Commissioner Howlett moved to approve staff recommendation of Access Control: NH 0002(606), 4776-606-000 Access Control – US 93 N & S (Lolo-Missoula). Commissioner Griffith seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

### **Agenda Item 13: Letting Lists – March through August 2007**

Loran Frazier handed out the Letting Lists to the Commission for March, April, May and June. He stated that the federal money spout has not been turned on quite as high as we would like to see. We plan on that money to get the bulk of our work out in the next two months. The lettings are right around \$47 million, \$40 million, and \$48 million for the next three months. Commissioner Kennedy asked if this would catch us up with the projects that had been pushed back waiting for the continuing resolution to pass. Loran stated yes, the projects for December, January, and February have been moved out into these months. Commissioner Griffith said he could only see Highway 93 projects on the letting for April and was under the understanding that McClure Road was going to be let this spring. Loran said there were three remaining Highway 93 corridor projects – the Spring Creek to Mine Singer still has a legal issue with one landowner and we are hoping to reach resolution on that fairly soon. So we have had to move the Spring Creek to Mine Singer out. McClure Road still has five condemnations so we have not been able to clear the right-of-way on at this time, so that project has to be moved out until we can get all the right-of-way issues resolved. Deputy Directory Currie stated the other issue involved with the Evaro to McClure project is the need to secure additional spending authority through this legislative process and that is in process now. We have an additional \$26 million that is contained in House Bill 5 which is working way through the Legislature. We will have to issue some additional bonds for proceeds. Even based on that, the latest estimate shows that we don't have quite enough money to finish all three of the remaining projects. At the last Quality Oversight Group (QOG) Meeting we instructed the technical design group to go back and see where they could find some changes in these projects to get them back on budget without jeopardizing the MOA. He explained QOG is a three government group that meets on policy issues relative to our bonded project on Highway 93 north of Missoula.

Chairman Kennedy asked about whether the July 26<sup>th</sup> letting of the Park City to Laurel resurfacing project was enough time to get that done during this year or would it go into next season. Loran said it should be enough time to pave it in September or October and a seal cover would follow in the spring. Chairman Kennedy asked if that project could be moved up. Deputy Director Currie said if they are able to be bid sooner they would do that. Chairman Kennedy felt if they could get it underway earlier, they could at least get the chip seal done this year. Loran explained that it was in July because it was next year's money.

Commissioner Griffith asked if they would be adding more projects as money gets turned loose. Director Lynch stated they were still beyond what was allocated for the Red Book and Senator Baucus was able to secure the money we had planned. We always assumed we would have funding in 2007, so we planned our Red Book based on that. Our concern is if the House as a whole trims it back to 2006, we will be back here trimming projects. He stated he would go through that in his portion of the meeting.

Commissioner Griffith moved to approve the letting lists for March through August of 2007. Commissioner Howlett seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

### **Local Government Officials**

***The Lewis and Clark County Commission  
Missouri River Bridge – Craig***

Mike Murray, Lewis and Clark County Commissioner addressed the Commission as follows: My name is Mike Murray; with me today are Commissioner Hunthausen and Commissioner Kinsley. We wanted to take a minute to thank you for the cooperation we are getting locally from your employees and staff especially on Hwy 200 to Augusta. It is nice to see that section of road being improved. We at Lewis and Clark County are a little concerned at the Custer Interchange. We are concerned about the right-of-way next to the new Lowes store on the northwest corner of Custer. There is a for sale sign up where we need to gain some right-of-way. We are concerned that we will loose that land or the cost will be driven up an unreasonable amount. If the spigot is opened a little bit, if you could tie up that property maybe not purchase it but tie it up so that we have it when plans come off the board for the new interstate bridge that needs to go across there. I understand your policy is that you have plans before you purchase the right-of-way. But perhaps with the a couple of splashes of the spigot, if you could at least tie up the land there so it would be available when the plans were completed we would appreciate it. Thank you. Chairman Kennedy said he would refer the item back to Director Lynch and go from there.

Lewis and Clark County Commissioner Kinsley addressed the Commission as follows: Thank you for having us here. I see from your agenda you were originally scheduled to do something we normally think of as elected officials as an honoring symbolic thing. Northing we do as elected officials is ever as simple as it seems. We had determined that there was a possibility of needing to come before you. Normally County Commissioners are all about local control and it appeared by us coming to you that we were just relinquishing that. Well we weren't, we just assumed that because of your involvement with building the new Craig Bridge that we needed your permission today but we are kind of determining now that we may not. It is an all-system bridge, so we are probably going to just deal with it in our own chambers in our own time. We want to thank you for putting it on the agenda.

I have one other issue that a constituent asked that I bring up that is not a position of the County Commission. The constituent could not be here today but he asked me to bring it up. He has worked with our County in the past on roads like Birds Eye Road and Unionville Road where their local bicycle group has put up signs that say "share the road". They paid for them and we installed them to the standards. They are interested potentially in some of the urban areas such as Green Meadow Drive, Lincoln Road, and wondered whether the state would be interested in letting their group pursue something like that where they would pay for the signs or cost-share the signs. Obviously the department would have to put them up to standard. I told him I would raise this with the Commission as a discussion item. We are not asking for any decision. I would also like to echo Commissioner Murray's comment about your local staff. Director Lynch is an amazing Director to work with. You can get a hold of him at any time and he will get a hold of you at any time and we appreciate that kind of involvement. His staff is amazing. Charity and Lori and Mr. Currie have all been very helpful. Mick Johnson in particular is a great "go to" guy and I just wanted to share that with you. Thank you.

Chairman Kennedy asked if there were any complaints on the South Interchange. County Commissioner Kinsley said they always get complaints. He said it is not an easy deal and you may get complaints; we get complaints all the time.

Regarding the comment on sharing the road Commissioner Griffith said he was an avid enthusiast of that concept. I see people who are bicycling getting healthy and I think it is a great idea. County Commissioner Kinsley said the fact of the matter is that people are going to ride their bikes. The point they wanted me to make is that by putting up these signs they are trying to increase people's awareness and are not

trying to increase bicycle traffic. They wanted me to stress that. But the fact is that people are going to ride their bikes on these roads anyway. Director Lynch asked County Commissioner Kinsley to have the individual call him and stated the Commission whole heartedly supports this and said the department could help him out any way they can.

Chairman Kennedy asked if they were going forward with the July 6<sup>th</sup> dedication date for the bridge. County Commissioner Kinsley said yes. The bridge has already been named in the Resolution. One of the County Commissioners stated he had met with some of the opposition and he explained to them that it was not an issue for the Transportation Commission but that they were perfectly welcomed to come and talk to you but I want to pass on their comment because I thought it was very professional. They said since it was not an issue for this Commission they certainly did not want to waste your busy time and they would deal with issue before the County Commissioners. I was a former Criminal Investigator so I did a little research on this and I tracked it back to sometime in the 30's and 40's when Governor Anderson's horses got into this family's bull pasture and that is what started this whole thing. It is one of the Hatfield/McCoy situations that has never been let go of and it is unfortunate. Our position is that whether you are Democrat or Republican, former Governors deserve recognition – he was a son of Lewis and Clark County and added a lot to the State of Montana and we are pretty confident in it. We are not going to let a minor Hatfield/McCoy situation deter us from that. If something more comes up, we will talk about it. Thank you for your involvement. Chairman Kennedy thanked them for coming in.

***Phillips County Commissioner Richard Dunbar  
HB 798***

Phillips County commission Richard Dunbar addressed the Commission as follows: I am a Commissioner from Phillips County and also the President of an Oil and Gas and Coal Company. We are working on an impact bill that will be presented before the Legislature shortly – HB 798. The impact is for the oil, gas, and coal counties and the reason I want to bring it up before the Commission and the department is because if this bill passes, the department could benefit from this bill because we are looking at impacts to roads in the eastern part of the state in the coal counties. It will also impact the school districts and local governments. MDT could benefit from this bill and maybe move some projects up ahead of schedule. The bill takes 25% of the federal mineral royalties and puts them into an impact pot. The Coal Board and the Oil and Gas Board will be blended together to look at impacts. It will generate about \$9 million dollars per year if it passes. If it passes we will be able to look at addressing some major impacts. I know we have a road over in eastern Montana that needs some attention and isn't on the priority list. My insight is that if this bill passes it could greatly benefit that. The Glendive and Billings District and probably the Great Falls District are probably most of the oil and gas districts. So we have this bill up and I have one copy of it for you. It will be introduced after transmittal.

Director Lynch asked if the bill would take a simple majority to pass. County Commissioner Dunbar said he thought so and had not heard anything different. Chairman Kennedy said he would take the copy and pass it on to Director Lynch. County Commissioner Dunbar said it was one more tool that will help us address the impacts that are happening on the oil and gas fields.

Commissioner Howlett said he was in Richland County when they presented us with the fact that these roads were being heavily impacted and there was no revenue going back to the counties. The revenue from the counties was coming to the State and they needed a mechanism that would put something back to where the impacts were occurring. Clearly there needs to be some mitigation to the impacts and some portion should be going back to the counties where the damage is occurring to the roads. County Commission Dunbar said they submitted the same bill in 2001 and

got 25% to come back to the counties where the federal minerals were generated. This bill will take the 25% and give it to any county whether or not you are generating federal mineral dollars but if you've got impacts you will be able to apply for this money.

County Commissioner Mark Graybire introduced himself and stated this money will be handled in two pots – the Coal Funds and the Oil Funds and they won't cross. There will be two pots of money in one board. They are changing the makeup of the Coal Board to be able to administrate both funds. I believe you will apply to the Board and the Board will then decide if you get the money. Commissioner Howlett asked if currently the money went into the general fund. County Commissioner Dunbar said currently the money goes into the general fund. At that time Coal County Commissioner Patrick Gainbed introduced himself and Rose County Commissioner Troy Blanc introduced himself.

#### **Agenda Item 14: Certificates of Completion: October, November, December 2006**

Loran Frazier presented Certificates of Completion for the months of October, November and December to the Commission. He noted that these are projects we are completing. We have all their certifications of materials needed and we are doing the final physical work to finalize and close out the project. We have quite a number of them totaling \$16 million for October, \$20 million for November, and \$18 million for December. Staff recommends we approve the certificates of completion.

Commissioner Griffith moved to approve staff recommendations for the October, November, December 2006 Certificates of Completion. Commissioner Winterburn seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

#### **Agenda Item 15: Project Changer Orders: October, November, December 2006**

Loran Frazier presented the Change Orders for October, November and December of 2006 to the Commission. The total for the three months is \$3,573,023.02. The bulk of the change orders are in December and are on the four Highway 93 projects for December. Staff would recommend that you approve the Change Orders for October, November and December of 2006.

Commissioner Howlett asked Loran to go over what the change orders were for. Loran stated the change orders were for Highway 93 – one involves the vicinity of White Coyote Road South of Ravalli. The project manager wrote a change order for \$532,000 which included additional MSE wall for the retaining wall in place. We overran quantities on that by a slight amount over what was shown in the plans. There were some additional plant mix quantities and some additional gravel. We ran out of gravel in one of the pits and had to move into another pit. It wasn't any one thing on that job; it was an accumulation of all of the changes. South Ravalli, the Medicine tree was for dust control – we underestimated the amount of money for dust control for the detours which were needed for safety. The others were adjustments in the amount of borrow and dirt. There wasn't really any one thing; it was an accumulation of a lot of little items.

Commissioner Espy asked Loran about an account on page 15 of the handout. I can't understand why they underestimated the amount. Loran said that particular project was a very large excavation. The actual percentage of material moved was

quite small for the dollar amount. They also ran into a couple of areas on the existing roads that they are digging out and there was more material than what we estimated that had to be replaced, so it is a combination of three items. One the other project we ran into more soil that had to be taken out than estimated. Commissioner Espy said it looked like a lot of money. Director Lynch agreed. Commissioner Griffith asked about the contractor that never finished the project on Hwy 323, was that change order included in this. Loran said it was for items that the contractor paid for – we did not pay him for some items because the Claims Board reviewed everything and told us what items the contractor should be paid for. That was on the project where we terminated the contractor and the change order does include that.

Chairman Kennedy asked if there were any change orders for the King Avenue interstate project in Billings. Loran said there were no change orders for that project. Director Lynch said they were looking at the King Avenue project because of the fire there and we will need to cure the concrete and replace two possibly three beams. Our position is that is not the responsibility of the Department of Transportation, it is the responsibility of the contractor. We have resolved that. It is unfortunate for the community because it delays the timing of that project. Loran said that project was running quite a bit ahead of schedule and we haven't determined how much the fire will delay it.

Commissioner Howlett moved to approve the staff recommendations for the October, November, December 2006 project change orders as presented. Commissioner Griffith seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

## **Agenda Item 16: Liquidated Damages**

Loran Frazier presented the liquidated damages for four projects: the first project was for Benton–Custer to Wilder in Helena; and Cruse–Park to 11<sup>th</sup> Avenue in Helena. Helena Sand and Gravel overran the contract time by seven days. We notified them of that and received no response. Their overrun for seven days @ \$989 per day comes to \$6,923.00

The second one is for the I-15 project near Great Falls. Pavement Management Solutions of Kalispell overran the contract time by seven days. We notified them and did not hear anything back. Seven days @ \$1,505.50 per day comes to \$10,535.00.

The next is for projects Clearwater Junction East and Junction 83–West, and for the bridge at 12 km North of Helmville. Riverside Contracting overran the contract time by nine days. They agreed to the amount of liquidated damages for nine days @ \$2,341.00 per day for a total of \$21,069.00.

The next project is for State Fund Construction 9 km South of St. Xavier-South and for Secondary 384 East of Hardin–East. Riverside overran the contract time by one day. At the final inspection they agreed to the amount of liquidated damages. We recommend assessing the one day at \$2,341.00.

Commissioner Griffith asked if anybody protested any of the items. Loran Frazier said no. Director Lynch noted that no action was necessary on this item.

## **Agenda Item 17: Commission Discussion**

### ***Bid Letting***

Director Lynch stated he had some information to bring to the Commission. As you know we've been doing bid lettings and Commissioner Griffith asked where we were in relation to bid letting. We have the Red Book estimate which is done prior to bidding the project and then we do an estimate at the time we bid the projects. Although some of our projects have come under our Engineer's estimate, I don't want to give a false sense that we are improving on our Red Book – although in some cases we do and in others we don't. He handed out a comparison sheet for the Commissioner's review. We were \$8 million over our budget for the Red Book for November, in December we were \$2 million over, but then we gained \$1 million in January. So right now we are looking at \$9.5 million over what we had planned in our Red Book. If we continue to do what we did in January, although in February we did not, we are still within a manageable number. I don't see at the present time that we will need to cut project. We can work with revenues that we might receive in October from Federal Highways or we can work with what we call "advance construct" Chairman Kennedy asked what the manageable number was. Director Lynch said it depends on where we are cash wise and what we anticipate coming from Federal Highway Administration. I would say if we are under \$10 million we are ok. Again we will have to look at whether we would be better served delaying a project a month or two and there are a lot of factors that have to weigh into that. The best thing is to not get into any "advance construct." That is the really the goal of the department is to not have any "advance construct" projects. At the same time we want to be careful we don't have projects available to bid if we were to lose money from the federal government. As Jim Currie said it is a career altering event here at the Department not to spend federal dollars. Deputy Currie said we have more projects than we have obligation authority. We don't worry too much at the career altering event, but there is another career altering event for me and that is to have a severe problem with the State's Special Revenue Fund and advance construction impacts that. Advance construction is not a bad thing depending on the time of year – if it is in the fall and the weather is bad and the contractor doesn't go to work, advanced construction is not bad; but if the weather is good and he goes to work and he starts sending us bills, then it is a problem. If it is in the spring and we are going into the construction season, it is a problem. So we kind of have to lay a time on it. Director Lynch said they would manage that from bid letting to bid letting.

### ***Shiloh Road Update***

Director Lynch updated the Commission on Shiloh Road. We have three projects that are gathering some attention. We are administering them in a little different way from other projects because of who they involve. The Shiloh Road project is moving forward. For those of you who are new, a lot of these projects that involve cities, counties, state corridors gather a lot of public interest and the Department of Transportation holds Stakeholder Meetings where we try and let everybody know what is happening and how the projects are progressing for obvious reasons: (1) it dissolves a lot of misinformation that drives controversy severely. We don't think that is healthy for the communities or for the Department of Transportation. On those particular projects we bring everybody to the table. Many of these projects have a shared responsibility and it is very important that the landowners and the local government agencies understand what their position is in developing a state highway within their communities, so we've been bringing these people to the table. We set up schedules and help them understand the schedules may move, and ask them to look for ways to help us get back on track. It has been a very positive way of dealing with some very high profile projects. One of those projects is Shiloh Road. We had target date of March but the environmental documents put us back a couple of weeks. We fully anticipate it will move back and forth but we are shooting for March 2009.

### ***Belgrade Interchange***

Belgrade Interchange is another one of those projects. It was a project started by a county and we finally got everybody in the same room and everybody came out with a better understanding of how the project is moving forward and whose responsibility it is to keep the project on schedule. The biggest hurdle holding the project up was the MOU. I think it is now at the local level. There is local participation in this project and there is some private investment into this process. So the City and the County have to work out a Memorandum of Understanding with the private sector as to what their funding requirements and obligations are going to be as this project moves forward. That is very difficult because we don't know what the cost of this project is going to be until we get through the full design process and deal with construction cost increases and time.

### ***Custer Interchange***

As Commissioners you know we are moving forward with the Custer Interchange, however, we do not have the total funding package for that interchange. We are going to ask the need, as we did with the South Interchange, some investment outside the Department of Transportation and Federal Highways to get this project completed. Custer is a real touchy area because there is some property that could be developed and we are very concerned about that at the Department of Transportation because if the property is developed, it isn't just a matter of buying developed property, it could actually have a significant impact on whether or not we can even build the interchange. So that is an area we are very sensitive to right now and we are hoping the City of Helena understands how important that piece of ground is for the completion of that interchange. Really they are the only entity right now that can protect that property; there is nothing we can do as the Department of Transportation to protect that. We are building for design and it is on schedule. Again we don't have the full funding package and we are anticipating the private sector as well as the community to come forward with some of that money as well as some additional help from Washington D.C. with additional earmark funding that doesn't take away from the core program. Commissioner Winterburn asked if it was possible for the Department of Transportation to buy that land in order to hold it so it can be used for the interchange. Director Lynch said they don't have enough funding right now to do that. Commissioner Winterburn asked if it was within their realm to do that. Loran Frazier said they could do that if they had a willing seller – we can negotiate a price. The particular developer out there is not willing to let it go for appraised value, he wants somewhat more than appraised value and we can't condemn the property because we don't have the final design and plans done. We couldn't demonstrate to the court the necessity at this point. Deputy Director Currie said they would like the developer to donate the land for the ramps. Director Lynch said that another issue they are dealing with at Custer Interchange is getting the community to understand we need some participation in this interchange also. They are the direct benefactors of this interchange.

Commissioner Howlett said that as the Department moves this project along, at some point you will come to a fork in the road, will you have the participation of the investors that you need to make this project go forward or not. Director Lynch said they have to that. Commissioner Howlett said they couldn't just keep putting money into this project because the land is going to continue to go up and if it starts getting developed it is only going to escalate in price. We have to have some kind of an idea if this project is a go or not. Director Lynch said they will get to that point – again it is the chicken or the egg. We have to have a project, a cost, a footprint' we have to determine what we've got and then get the players to the table and look at what funding opportunities there are. Commissioner Howlett stated a project can get stuck in the mud and yet we've invested a whole bunch of money into it and just can't get out of the mud with it. Swamp Creek has been one of those projects. Sometimes Congress will throw in an earmark which is only a portion of what you need and is never enough to do the project, then it sets everything else back. From the time a project moves from a concept to a reality can be as long as eleven years.

Commissioner Espy asked at what point a property can be condemned. Deputy Director Currie said once right-of-way has exhausted their efforts, the file is sent to Jim Walther and they issue an Order of Condemnation. The file comes to me and I assign an attorney to it. The attorney has a little more flexibility to attempt negotiation. If they can't come to an agreement, we file a complaint. The first test is the necessity for the "take". If the landowner challenges that, you have a period of up to six month to get that before the judge on the single issue of necessity. Assuming we prove that, we can certify right-of-way to Federal Highways and we can go ahead with the project but we still have a value issue that ultimately can go to a jury trial. So it can be a fairly substantial delay. We don't have too many cases that go to jury trial, and we don't have very many cases where the issue of necessity is contested, but when it happens, I usually just tell Loran or Jim Walther to back things off four-to-six months depending on the court's calendar and how quickly you can get a hearing date, and witnesses lined up to establish the necessity issue. Until you establish necessity and you have an Order putting the Department in possession, you can't go. Occasionally you can get a conditional certification of right-of-way but it a very rare thing because if you don't happen to get it and you build the project, you've got a real problem. A single parcel on a 200-300 parcel project can be very problematic. Commissioner Espy said it was disturbing that one person could hold up a project that could benefit so many people and he will end up getting more than anybody else; it just seems wrong.

Directory Lynch said it was no accident that they hold out. Some people simply do. They know eventually the pressure will come especially the later we get into the fiscal year. The lawyers representing landowners know this process very well. They know that to ultimately get the money you have to push it into some sort of hearing. But you can leverage that by simply holding out. The bigger the job the more pressure there is to get things done. It may be over value or it may be over something as miniscule as a construction feature, i.e., fencing, culverts, approaches, etc.

Commissioner Espy said a constituent asked if they could take an ad out in the newspaper stating they were holding out. She said she would ask. Director Lynch said for the record, we had some division administrators out there that were under the impression they couldn't. We fixed that. Absolutely you can. In other states if they don't have a buy from the community, they don't run those projects through. They are seeing what we are seeing and that is spending millions of dollars trying to promote a project only to find out they can go with it. They would rather take those millions and put them into other projects.

Commissioner Espy said they ran into a problem with the county airport. The lady who owned part of the land told us for years that she was giving the land to us. When right-of-way went in to talk to her, she told them she was going to donate the land. The agent said they would offer her \$250,000 for the land and she said she would take it. The company knew she was going to donate it. How would you have handled that? Director Lynch said the department could take a donation, but they still have to appraise the property and notify the landowner of that appraisal. Unfortunately when the sweet smell of money is wafted in front of their face, some of them change their mind.

### ***Alzada to Ekalaka Project***

There has been a lot of discussion on this project because it received a House earmark. The legislation says you can borrow against other earmarks if projects aren't ready, however, House earmarks can only borrow against House earmarks and Senate earmarks can only borrow against Senate earmarks. There was only one House earmark in SAFTEA-LU so there is no money to borrow. That project is ready to go; however, they don't have the funding for that project because the earmark comes in fifths and won't come in until 2009. Since it is the only House earmark and we

can't borrow against Senate earmarks, we are going to go to Congress for a "fix" to allow that earmark to be borrowed against a Senate earmark that didn't get done. We have met with the Carter County Commissioners to explain the process to them. As soon as we receive the obligation from Federal Highways for the 2007 Continued Resolution, we will have \$4.7 million available that can be used on this project. However, the project needs another additional earmark to finish of about \$10 million. Then to finish the small portion they hope to finish, they will have to wait for the full payout. Our suggestion to Carter County is that they instruct us to move forward with a project that will spend the \$4.7 million. If you look at this roadway, there is a Secondary 227 which comes into 223 and we believe that most of that roadway is gravel and it would be a matter of putting it into pavement rather than a total reconstruction which obviously costs more per mile. There may be enough money in the existing obligation from Federal Highways to do Secondary 227 so we are building to something. Carter County wants us to do that. Chairman Kennedy asked if they had sent a letter. Director Lynch said they sent an email. He said right now Ray Mengel is going to get on board and design a project for the \$4.7 million on that stretch of roadway. Hopefully we can get it bid this season and get the payment on this season before the winter hits and use up what money is available. Then we will have to wait for the rest of the earmarked money to come in and hopefully additional earmarking to finish the entire structure. I think the Commissioners now understand the process. Chairman Kennedy thanked him for getting the project going and felt this was a good compromise and a good solution. He felt there was a lot of misconception on what you could do with earmarks. He stated that it was important to get all comments in writing from all entities involved in these projects to avoid confusion.

#### ***West Fork Road, Ravalli County***

Director Lynch said it was still not resolved. They were working to bring everybody to the table on that project.

#### ***Powell County Project***

There was an archeological dig that stopped the project that has been resolved. Loran said it was designed and should be ready to go. Chairman Kennedy asked if someone from the Department would call the Powell County Commissioners and give them an update on that project. Deputy Director Jim Currie said it was a fascinating project because kids from all over were able to come and look at bones that were hundred of millions of years old. It was unfortunate that it delayed the project but it was fascinating to get to see a part of history.

#### ***Miscellaneous Issues***

Commissioner Howlett said that he wanted to bring forward some issues and ask that we come to some resolution of them. One is the Lane Deer Project and I'm not aware of the status of that project. Secondly is Swamp Creek. I would like to see something definitive on what we are going to do there. The third area of particular concern is in District One where there are a lot of controversial projects and earmarks and other things, and I get a lot of calls from different constituents on these projects, so I'm thinking there needs to be better communication with the Commissioners with major projects in their districts, i.e., the Kalispell Bypass and the Blue Mountain Interchange in Missoula are two that come to mind with specific earmarks. There are constituents on both sides of the issue and they all want a part of your ear and I would like to be more informed on the status of these projects.

The fourth item that I would like to see us move forward on is that people, particularly the tribes, have somewhere to go and someone to talk to about issues specifically related to highway projects on the reservation. For that reason, I think I would like to see us continue to have this Tribal Relations Committee. If nothing

else than for people and the Tribes to feel they have a place to come. One of the things I do know is that if we want to engage discussion, we have got to reach out. We are not going to get that by asking people to come to Helena. So as we plan projects in the state that cross the reservations, we need to hear something from the Tribal Governments. Every opportunity we afforded Salish Kootenai on Highway 93 was an opportunity because we founded an MOU on trust and respect. We did that by reaching out. All three agencies reached out. We haven't done that. We haven't done anything wrong; I just think we can do it better. So I just want to encourage the department to think about how we might better engage the Tribes on projects. We are going to have some difficult issues – I don't know if we have come to an agreement with Ft. Belknap, but lives are in jeopardy because we are not engaging enough to find solution to some of the problems. I'm not saying this to be critical; I just want to find a way to have a more extensive engagement with the Tribal Nations in this state.

Director Lynch said he appreciated what Commissioner Howlett had to say but he respectfully disagreed. I think this department particularly over the last two years has done extensive communication with the Tribal Governments. I've had communication with all of them. The Governor's Council on American Indian Nations (GAIN) is the entity in the Governor's Office that deals with tribal relations and I sit on that Board as the Director of the Department of Transportation. MOUs are a function of the Department of Transportation with the help of the GAIN Council to move those projects forward. We are moving those forward all the time with PSAs on projects. We've had substantial communication with the Native American people throughout this state particularly in an area that is of great interest to me and that is highway safety. I'm amazed and very appreciative that we've been able to pull that together and involve a very important entity in this state. I think we've done a tremendous job in this state over the past two years. We don't see a lot of comments and I think Chairman Kennedy has done a tremendous job in putting local government time on our Commission meetings and we don't even get a lot of County Commissioners that show up but the point is they have the opportunity and we also express that opportunity to our Tribal leaders to participate. We do go out into the community. We've got some safety programs that we have incorporated right on the Reservations using their personnel to promote and you are aware of some of those. We have 350 people employed on the Salish Kootenai Reservation which is unheard of. We have 150 Native Americans employed between the Blackfeet and Belknap on projects up in District Three. I think we've done a great job in making sure they are available and we are going to continue to do that. We do have an inherent problem in getting public participation because it is a very complicated process and it is not just unique to the Native American population, it is something we have problem wherever we go. We are seeing it on Shiloh Road.

I appreciate your comments and I appreciate the fact that you keep these issues in the forefront because I believe they need to be. I believe the Native American population is unique from the rest of the population. I understand and appreciate the cultural differences that lie between the two people and understanding what is appropriate and what is not appropriate. I think you've done an admirable job in keeping that in the forefront. We are going to continue to do that. I think GAIN is very effective. In some respects it hasn't been at the appreciation at some of the Native American people involved because we've all elevated to a level of accountability – they have to be accountable and we have to be accountable and it has really changed a lot of ways we deal with the Tribes and Reservations throughout the state. I would like for you to keep reminding us that is something we have to do but I believe the Governor's Council on American Indian Nations has been very effective and very productive. Has it given the Reservations everything they've wanted? No it hasn't. Has it not given them something they are entitled to? Never and I think we've demonstrated over the last two years that we've gone above and beyond what they are entitled to as well as the other citizens of the state. I appreciate your concern

and I'll tell you as the Director we are going to continue to strive in that area to make sure they do have a place at the table.

Chairman Howlett said he appreciates all the work that has been done. I submit though and I use Salish Kootenai as a reference because that is my home; it's being done because we crafted that MOU and designed it to be done. I don't disagree with any of the work – a lot of it is very admirable. The safety thing is important because the carnage on some of these roads is intolerable and it never got addressed but it wasn't MDT's fault. It was a lack of information that didn't identify the road where all the accidents were happening. Being able to get the Tribes to submit the data has made a big improvement. You have the projects going down on the Crow Reservation with sobriety checks. The Tribal leaders across the state need to begin to take some positions on seat belt laws and on sobriety checks and doing other things. So I'm very appreciative of that. I certainly don't mean to suggest that the GAIN Council has not been effective. But even though the Governor said on the very first day "you can come through the front door", there are a lot of people who still don't go to the door. That is what I'm talking about. It is more of a conceptual thing than a descriptive thing. So I'm going to continue to reach out. Maybe it will be the Tribal Relations Committee. Maybe I have to do that and that is ok, I'll do that. We've got to reach out. People are not going to necessarily reach to Helena. I think that is something that will build a strong state. Chairman Kennedy suggested he might want to visit with the GAIN Council and express his concern. Director Lynch said that if he gets comments or questions, direct them to me and I'll see to it they get to the right person. That is my job and I thoroughly enjoy doing it and I'll help you out any way I can.

### ***New State Map from the Department of Transportation***

Director Lynch passed out a map and noted that Travel Montana was the funding entity for the map. He pointed out that the Department of Transportation develops the map – they design it and give the disk to Travel Montana who contracts with a printing company to print the map. The new map has some unique features – we've added in Great Falls, the Chippewa Tribe. The map is bigger than the past maps. He pointed out the front of the map that says "learn from those who passed this way" and it talks about the white markers. We had to be very careful but we are pointing out that the white markers merely show the crash sites that have happened on the highways in Montana. We might get a little bit of flack for that but we are prepared to take it because we had overwhelming support for it. On the back of the map we have identified some geological sites and we are taking grade schools and high schools to these various sites and talking about the geology of Montana and using the road system to maneuver us through there. It follows a book that was produced by a professor at the Montana State University called "Roadside Geology". You can see a little bit about the program and the little yellow circle with a rock pick designates all the sites in the State of Montana. We also have the inserts for the different communities and the different types of activities that are happening in the State of Montana. Please accept the copy and we hope you enjoy the map. I think Sandy's office did a fabulous job on this.

### **Agenda Item 18: Public Comment**

No public comment.

### **Agenda Item 19: Next Commission Meeting**

Chairman Kennedy stated there was a Conference calls slated for April 9<sup>th</sup>. He asked Loren when the bid letting was. Loran said it was March 29<sup>th</sup>. Chairman Kennedy

said there was a Commission Meeting in March and Lori would get the exact date to the Commissioners. The regular meeting is scheduled for April 26, 2007, and asked if that meeting could be switched to May 3<sup>rd</sup>. He noted that he would be gone on the April 26<sup>th</sup> but was scheduled to be in Helena on May 3<sup>rd</sup>. He felt that would give the Commission an opportunity to find out just what happened in the Legislature.

Director Lynch said the Spring ASHTO was scheduled from May 3<sup>rd</sup> to 7<sup>th</sup>.

Chairman Kennedy asked if May 2<sup>nd</sup> would work for everyone. Director Lynch said that would work better. He said he would check the ASHTO schedule to see if May 3<sup>rd</sup> would work, otherwise it could be May 2<sup>nd</sup>. Lori would let them know if the meeting will be on May 2<sup>nd</sup> or 3<sup>rd</sup>.

Chairman Kennedy said the Commission would be traveling to Nancy Espy's district and Kevin Howlett's district this year, and asked if they would each work with Lori Ryan to figure out the timing as well as where to have the meeting. He asked if it could be laid out at the next board meeting so the Commission could plan the rest of the year. The meeting adjourned.

Bill Chairman Kennedy, Chairman  
Montana Transportation Commission

Jim Lynch, Director  
Montana Department of Transportation

Lori K. Ryan, Secretary  
Montana Transportation Commission